

COPYRIGHT 101



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Questions?

- How do I protect my creative work, especially online?
- How do I avoid copyright infringement, especially online?
- Can I depend on "fair use"?

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Subject Matter of Copyright

- literary works;
- musical works/sound recordings;
- dramatic works;
- pictorial works;
- choreographic works;
- audiovisual works; and
- architectural works.



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Originality and Fixation

Copyright law protects:

- **original** works of authorship;
- **fixed** in a tangible medium of expression.

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What is Not Protected?

- **Ideas (idea/expression dichotomy)**
- Facts
- Procedures
- Processes
- Systems
- Concepts
- Principles
- Inventions (patents)
- Trademarks



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Exclusive Rights

1. reproduction;
2. distribution;
3. public performance
(for sound recordings, digital performances only);
4. public display;
5. adaptation (derivative works).

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Formalities

Not required for copyright ownership to vest (as of 3/1/89), but still important.

Registration:

- Required for suit
- If timely made, allows collection of statutory damages and attorneys fees.

Notice: Prevents infringer from claiming innocent infringement.

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Duration

- Works created on January 1, 1978 or later endure for the author's life plus 70 years.
- Works made for hire or anonymous or pseudonymous works: 95 years from publication or 120 years from creation, whichever is shorter.

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Infringement

Elements:

- ownership of valid copyright;
- unauthorized use of an exclusive right (e.g. reproduction, adaptation, etc.)



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Remedies

- Injunctions
- Impoundments
- Attorney Fees
- Damages
 - Actual
 - Statutory (\$750 to \$30,000; \$150K if willful)
- Criminal

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Exceptions

1. **Public Domain**
2. **Permissions/Licenses**
3. **Sec. 110/TEACH Act**
4. **Fair Use**

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Public Domain

1. Insufficiently creative,
no copyright (e.g., ideas)
2. Affirmatively dedicated to PD
3. Copyright expired
4. Materials created by U.S.
government

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Permissions/Licenses

1. Exclusive
2. Non-exclusive
3. Implied
4. Creative Commons
5. Click-wrap

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Section 110/TEACH Act

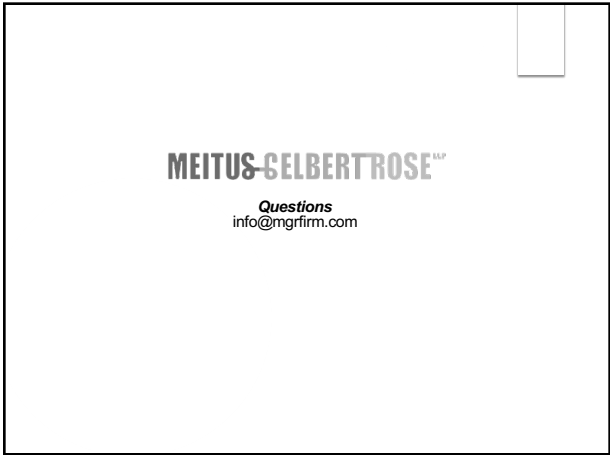
1. Sec. 110: In-person setting, teachers and students can *perform and display* works (including A/V) if lawfully obtained. Limited reproduction.
2. Sec. 110(2): Applies to government entities and accredited nonprofit educational institutions. Allows e-learning for:
 - Nondramatic literary
 - Reasonable portion of other works
 - Does not apply to commercial e-learning materials
3. Requires:
 1. Supervision of instructor
 2. Part of mediated instructional activities
 3. Access technically limited
 4. Non-interference with CR owner limitations
 5. Policies promoting compliance

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Fair Use Defense

- 1) **Purpose** and character of use.
 - Commercial or non-commercial?
 - Transformative?
- 2) **Nature** of copyrighted work.
 - Published or unpublished?
 - Highly creative or fact-based?
- 3) **Amount** and substantiality of work used.
- 4) **Market effect.**
 - Actual or potential?

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